

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2104.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	March 12, 2004
DATE OF REPORT:	April 8, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 11, 2004

**COMPLAINT ISSUES:**

Whether Delaware Community School Corporation and Delaware-Blackford Special Education Cooperative violated:

511 IAC 7-25-2(a) by failing to implement written procedures that ensure the location, identification, and evaluation of a student who has legal settlement within the jurisdiction of the public agency, and who exhibits a pattern of behavioral or performance concerns within the school setting, demonstrating the need for special education and related services.

**FINDINGS OF FACT:**

1. The Student is 11 years old and attends the local elementary school. The Student has been determined eligible for Section 504 services due to having ADHD, Separation Anxiety Disorder, and Oppositional Defiant Disorder. An evaluation for special education and related services has been requested and is being conducted, and a case conference committee (CCC) meeting has been set for April 8, 2004.
2. The Student was placed at a residential treatment center in September 2003, after abuse was suspected. Due to conflicts between the Student's parents and behavioral concerns at home, the court requested diagnostic testing in order to obtain recommendations for treatment. The School was invited to participate in an educational planning meeting at the center, on the issue of educational placement, in October 2003. They were not provided a copy of the Student's completed testing results. However, after reviewing the Student's school records, the School did not believe there was a pattern of behavioral or performance concerns that demonstrated a need for special education and related services.
3. The building principal attended a general education intervention meeting concerning the Student on February 25, 2004. The results of the evaluation by the treatment center were discussed, as well as the suggestion that the Student be considered for special education eligibility under the category of "Other Health Impairment." The principal suggested consideration of Section 504 services and accommodations. A 504 meeting was scheduled for March 4, 2004.
4. On February 27, 2004, the Assistant Director of Special Education contacted the parent to discuss whether she wished to give consent for a special education evaluation, and to explain the eligibility determination process with her. At that time, she did not give consent, and believed that the Student was making good progress with the counselor at the treatment center.

5. On March 4, it was determined that the Student met the eligibility criteria for Section 504. A plan was developed for positive behavior support. However, some individuals still wanted the Student included in special education. The Director of Special Education explained the requirements of a special education referral, including the fact that the school or the parent must initiate a request for an initial evaluation. The school must secure written consent from the parent for the evaluation to be conducted, and an adaptive behavior evaluation must also be conducted. When asked again about referring the Student for a special education evaluation, the parent gave her consent, and a CCC meeting was scheduled for April 8, 2004.
6. The special education planning district has the necessary child identification procedures in place, and building administrators are provided training annually on procedures, including child identification. District leaders meet annually with representatives from both public and nonpublic schools.

#### **CONCLUSIONS:**

1. Findings of Fact #2, #3, #4, #5, and #6 indicate that the School did not fail in its child identification responsibilities. General education intervention was considered, as was coverage under Section 504. When the option of an evaluation for special education was first presented to the parent, she chose not to give her consent. Therefore, there is no violation of 511 IAC 7-25-2(a).

**The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.**